

Senate Bill No. 1058

CHAPTER 564

An act to amend Sections 1502 and 2117 of, to add Chapter 22.5 (commencing with Section 2280) to Division 1 of Title 1 of, and to repeal Section 1502.5 of, the Corporations Code, relating to the Victims of Corporate Fraud Compensation Fund.

[Approved by Governor September 25, 2012. Filed with
Secretary of State September 25, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1058, Lieu. Victims of Corporate Fraud Compensation Fund.

Existing law establishes the Victims of Corporate Fraud Compensation Fund, a continuously appropriated fund, within the State Treasury administered by the Secretary of State, the sole purpose of which is to provide restitution to victims of corporate fraud.

This bill would revise and recast those provisions, including eliminating the requirement that the Secretary of State adopt those regulations. The bill would provide that an aggrieved person who obtains a final judgment, as specified, against a corporation based upon the corporation's fraud, misrepresentation, or deceit, made with intent to defraud, may file an application with the Secretary of State for payment from the fund for the amount unpaid on the judgment that represents the awarded actual and direct loss to the claimant in the final judgment. The bill would limit the amount to be paid from the fund to \$50,000 with respect to any one claimant, as specified.

This bill would require a claimant to apply for restitution on a form prescribed by the Secretary of State including specified information and representations. The bill would establish procedures for the Secretary of State in determining whether a claim shall be paid, including giving written notice to the claimant and the corporation, as specified. The bill would prescribe procedures for judicial review of a denied claim. The bill would require a corporation to reimburse the fund and pay interest for any payment made from the fund by the Secretary of State in settlement of a claim or toward satisfaction of a final judgment against the corporation, as specified. The bill would make it a crime to file a document under these provisions that is false or contains willful, material misstatements. The bill would apply its provisions to applications submitted to the Secretary of State on or after January 1, 2013. The bill would make conforming changes.

Because this bill would create new crimes, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall file, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing all of the following:

- (1) The name of the corporation and the Secretary of State's file number.
 - (2) The names and complete business or residence addresses of its incumbent directors.
 - (3) The number of vacancies on the board, if any.
 - (4) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.
 - (5) The street address of its principal executive office.
 - (6) The mailing address of the corporation, if different from the street address of its principal executive office.
 - (7) If the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any.
 - (8) If the corporation chooses to receive renewal notices and any other notifications from the Secretary of State by electronic mail instead of by United States mail, the corporation shall include a valid electronic mail address for the corporation or for the corporation's designee to receive those notices.
 - (9) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).
- (b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If a natural person is designated, the statement shall set forth that person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.
- (c) If there has been no change in the information in the last filed statement of the corporation on file in the Secretary of State's office, the corporation may, in lieu of filing the statement required by subdivisions (a) and (b), advise the Secretary of State, on a form prescribed by the Secretary of State, that no changes in the required information have occurred during the applicable filing period.

(d) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall provide a notice to each corporation to comply with this section approximately three months prior to the close of the applicable filing period. The notice shall state the due date for compliance and shall be sent to the last address of the corporation according to the records of the Secretary of State or to the last electronic mail address according to the records of the Secretary of State if the corporation has elected to receive notices from the Secretary of State by electronic mail. The failure of the corporation to receive the notice is not an excuse for failure to comply with this section.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(f) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(g) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

(h) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in this statement by means of an online database.

(i) In addition to any other fees required, a corporation shall pay a five-dollar (\$5) disclosure fee when filing the statement required by subdivision (a). One-half of the fee shall be utilized to further the provisions of this section, including the development and maintenance of the online database required by subdivision (h), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 2280.

(j) A corporation shall certify that the information it provides pursuant to subdivisions (a) and (b) is true and correct. No claim may be made against the state for inaccurate information contained in the statements.

SEC. 2. Section 1502.5 of the Corporations Code is repealed.

SEC. 3. Section 2117 of the Corporations Code is amended to read:

2117. (a) Every foreign corporation (other than a foreign association) qualified to transact intrastate business shall file, within 90 days after the filing of its original statement and designation of foreign corporation and annually thereafter during the applicable filing period, on a form prescribed by the Secretary of State, a statement containing the following:

(1) The name of the corporation as registered in California and the California Secretary of State's file number.

(2) The names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer.

(3) The street address of its principal executive office.

(4) The mailing address of the corporation, if different from the street address of its principal executive office.

(5) The street address of its principal business office in this state, if any.

(6) If the corporation chooses to receive renewal notices and any other notifications from the Secretary of State by electronic mail instead of by United States mail, the corporation shall include a valid electronic mail address for the corporation or for the corporation's designee to receive those notices.

(7) A statement of the general type of business that constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; or retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as the agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence street address. If a corporate agent is designated, no address for it shall be set forth.

(c) The statement required by subdivision (a) shall be available and open to the public for inspection. The Secretary of State shall provide access to all information contained in the statement by means of an online database.

(d) In addition to any other fees required, a foreign corporation shall pay a five-dollar (\$5) disclosure fee upon filing the statement required by subdivision (a). One-half of the fee shall be utilized to further the provisions of this section, including the development and maintenance of the online database required by subdivision (d), and one-half shall be deposited into the Victims of Corporate Fraud Compensation Fund established in Section 2280.

(e) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation shall file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the filing pursuant to Section 2105.

(f) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to statements filed pursuant to this section, except that "articles" shall mean the filing pursuant to Section 2105, and "corporation" shall mean a foreign corporation.

SEC. 4. Chapter 22.5 (commencing with Section 2280) is added to Division 1 of Title 1 of the Corporations Code, to read:

CHAPTER 22.5. VICTIMS OF CORPORATE FRAUD COMPENSATION FUND

2280. The Victims of Corporate Fraud Compensation Fund is hereby established in the State Treasury. The fund shall be administered by the Secretary of State for the sole purpose of providing restitution to the victims of a corporate fraud. The Secretary of State shall adopt regulations in furtherance of the administration of this chapter. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the Secretary of State for the purposes authorized by this chapter.

2281. As used in this chapter:

(a) “Application” means a request for payment from the fund submitted to the Secretary of State pursuant to this chapter.

(b) “Claimant” means an aggrieved person who resides in the state at the time of the fraud and who submits an application pursuant to this chapter.

(c) “Complaint,” for the purpose of an application based on a criminal restitution order, means the facts of the underlying transaction or transactions upon which the criminal restitution order is based.

(d) “Corporation” means a domestic corporation as defined by Section 162 or 2509 or a foreign corporation that is qualified to transact business in California pursuant to Section 2105.

(e) “Court of competent jurisdiction” means a state or federal court situated in California.

(f) “Final judgment” means a judgment, arbitration award, or criminal restitution order for which appeals have been exhausted or for which the period for appeal has expired, enforcement of which is not barred by the order of any court or by any statutory provision, which has not been nullified or rendered void by any court order or statutory provision, and for which the claimant has not otherwise been fully reimbursed. The following are examples of final judgments:

(1) A civil judgment that has been entered against a corporation for fraud, misrepresentation, or deceit, with the intent to defraud, and includes findings of facts and conclusions of law.

(2) If the matter was submitted to arbitration, a copy of the arbitration decision and any other documentation supporting the arbitration award. An arbitration award against a corporation for conduct constituting fraud, misrepresentation, or deceit, with the intent to defraud, that includes findings of fact and conclusions of law rendered in accordance with the rules established by the American Arbitration Association or another recognized arbitration body, and in accordance with Sections 1280 to 1294.2, inclusive, of the Code of Civil Procedure where applicable, and where the arbitration award has been confirmed and reduced to judgment pursuant to Section 1287.4 of the Code of Civil Procedure.

(3) A criminal restitution order issued by a court of competent jurisdiction against a corporation for fraud, misrepresentation, or deceit, with the intent to defraud, pursuant to subdivision (f) of Section 1202.4 of the Penal Code or Section 3663 of Title 18 of the United States Code. An application for

payment from the fund that is based on a criminal restitution order shall comply with all of the requirements of this chapter.

(g) “Fund” means the Victims of Corporate Fraud Compensation Fund created by Section 2280.

2282. (a) When an aggrieved person obtains a final judgment in a court of competent jurisdiction against a corporation based upon the corporation’s fraud, misrepresentation, or deceit, made with intent to defraud, the aggrieved person may, upon the judgment becoming final and after diligent collection efforts are made, file an application with the Secretary of State for payment from the fund, within the limitations specified in Section 2289, for the amount unpaid on the judgment that represents the awarded actual and direct loss, any awarded compensatory damages, and awarded costs to the claimant in the final judgment, excluding punitive damages.

(b) The application shall be delivered in person or by certified mail to the Secretary of State not later than 18 months after the judgment has become final.

(c) The application shall be made on a form prescribed by the Secretary of State and shall include each of the following:

(1) The name and address of the claimant.

(2) If the claimant is represented by an attorney for the application, the name, business address, and telephone number of the attorney. If the claimant is not represented by an attorney for the application, a telephone number where the claimant can be reached during regular business hours shall be included.

(3) The name and address of the corporation.

(4) The identification of the final judgment, the amount of the claim that remains unreimbursed from any source, and an explanation of the claim’s computation.

(5) A copy of a final judgment and a copy of the civil complaint and any amendments thereto upon which the judgment finding fraud, misrepresentation, or deceit, made with the intent to defraud, was made shall be deemed to satisfy compliance with the requirements prescribed in this paragraph. The claimant may also provide any additional documentation that he or she believes may help the Secretary of State in evaluating the application, including, but not limited to, evidence submitted to the court in the underlying judgment or a detailed narrative statement of facts in explanation of the allegations of the complaint upon which the underlying judgment is based.

(6) A description of searches and inquiries conducted by or on behalf of the claimant with respect to the corporation’s assets liable to be sold or applied to satisfaction of the judgment. A court’s determination or finding of the corporation’s insolvency or lack of assets to pay the claimant shall be deemed to satisfy the requirements prescribed in this paragraph.

(7) Each of the following representations by the claimant:

(A) That the claimant is not a spouse or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation nor a personal representative of the spouse or an immediate

family member of an employee, officer, director, managing agent, or other principal of the corporation.

(B) That the claimant has complied with all of the requirements of this section.

(C) That the judgment underlying the claim meets the requirements of subdivisions (a) and (b) of Section 2282, including all of the following:

(i) That the judgment was for fraud, misrepresentation, or deceit by the corporation, with the intent to defraud.

(ii) That the judgment is unpaid in part or in whole.

(iii) That the underlying judgment and debt have not been discharged in bankruptcy, or the underlying judgment is statutorily nondischargeable, or, in the case of a bankruptcy proceeding that is open at or after the time of the filing of the application, that the judgment and debt have been declared to be nondischargeable by the judge or stipulated as nondischargeable by the parties in the proceeding and that the claimant has been granted permission by the bankruptcy court to proceed with collection or otherwise proceed with the claimant's claims against the corporation.

(D) That the claimant does not have a pending claim and has not collected on the final judgment from any other restitution fund. If the claimant has a pending claim or has collected from another fund, a description of the nature of the pending claim and the recovery amounts from any restitution fund.

(d) (1) Except as provided in paragraphs (2), (3), and (4) the Secretary of State shall not condition an award of payment from the fund upon a claimant providing any additional information or documents other than those prescribed in subdivision (c).

(2) If the final judgment in favor of the claimant was by default, stipulated, a consent judgment, or pursuant to Section 594 of the Code of Civil Procedure or if the action against the corporation was defended by a trustee in bankruptcy, the Secretary of State may request additional documents and information from the claimant to determine whether the claim is valid.

(3) If the final judgment does not expressly set forth the amount of damages that were awarded for actual loss and compensatory damages that are payable from the fund pursuant to Section 2289, the Secretary of State may ask the claimant to provide copies of documentation pertaining to the amount of the actual and direct loss and the awarded compensatory damages or both of those findings. For purposes of this section, "sufficient proof of money damages" may include any of the following: copies of bank account statements showing or confirming particular transactions, copies of the front and back of checks made payable to the corporation that have been negotiated, credit card statements showing or confirming particular transactions, or similar documentation demonstrating financial loss directly resulting from the fraudulent acts by the corporation and the amount of compensatory damages awarded by the court.

(4) If there is no court determination or finding of the corporation's insolvency or lack of assets to pay the claimant, the Secretary of State may

request additional information and documentation from the claimant to determine what assets, if any are available to satisfy the final judgment.

(e) The Secretary of State shall include with the application form a notice to the claimant of his or her obligation to protect the underlying judgment from discharge in bankruptcy, to be appended to the application.

(f) If a claimant is a spouse or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation, or is a personal representative of the spouse or an immediate family member of an employee, officer, director, managing agent, or other principal of the corporation, the claimant shall not be precluded for that reason alone from receiving an award where the claimant can otherwise meet the requirements of this section.

2282.1. (a) The Secretary of State shall provide notice to the corporation that a claimant has submitted an application for payment from the fund and shall also provide within that notice, as prescribed by the Secretary of State, the method to contest the payment from the fund.

(b) The notice shall be provided by certified mail addressed to the corporation's last designated agent for service of process of record with the Secretary of State and notice shall be deemed complete five calendar days after the notice is mailed.

(c) If the corporation wishes to contest payment of an application by the Secretary of State, the corporation shall mail or deliver a written response addressed to the Secretary of State within 30 calendar days of the notice of the application, and shall mail or deliver a copy of the response to the claimant. The written response of the corporation shall not be directed to issues and facts conclusively established by the underlying judgment. If the corporation fails to mail or deliver a timely response, the corporation shall have waived the corporation's right to present objections to payment of the application, and shall not thereafter be entitled to notice of any action taken or proposed to be taken by the Secretary of State with respect to the application.

2282.2. (a) The response by the corporation shall be by an officer or director and shall contain proof of service showing that a copy of the response was sent to the claimant, or if the claimant is represented by an attorney for purposes of the application, to the claimant's attorney, at the address specified in the application for the claimant or the claimant's attorney, respectively.

(b) If the corporation is not represented by an attorney in objecting to payment of the application, the response shall contain the name, title, and address of the officer, director, managing agent, or other responsible person authorized to represent the corporation and the address at which the corporation wishes to receive correspondence and notices relating to the application, and a telephone number at which the corporation's representative can be reached during regular business hours. If the corporation is represented by an attorney in objecting to the application, the response shall contain the name, business address, and telephone number of the attorney.

2283. (a) If the Secretary of State determines that the application, as submitted by the claimant, fails to comply with the requirements of Section 2282, the Secretary of State shall, within 21 calendar days after receipt of the application by a single claimant or within 40 calendar days after receipt of the application by multiple claimants, mail an itemized list of deficiencies to the claimant.

(b) The time within which the Secretary of State is required to act under Section 2284 shall be measured from the date of receipt by the Secretary of State of a completed application. In the event of an irreconcilable dispute between the claimant and the Secretary of State on the question of whether the application is complete, the claimant may immediately file the claim with the court pursuant to Section 2287.

(c) If the Secretary of State has mailed one or more itemized lists of deficiencies to a claimant, and, if after 30 calendar days the Secretary of State has not received a response to the latest list of deficiencies, the Secretary of State shall notify the claimant that, unless the claimant responds to the deficiencies within a specified period of time of not less than 15 calendar days, the application will be denied.

2284. (a) The Secretary of State shall render a final written decision on the application within 90 calendar days after a completed application has been received unless the claimant agrees in writing to extend the time within which the Secretary of State may render a decision.

(b) The Secretary of State may deny or grant the application or may enter into a compromise with the claimant to pay less in settlement than the full amount of the claim. If the claimant refuses to accept a settlement of the claim offered by the Secretary of State, the written decision of the Secretary of State shall be to deny the claim. Evidence of settlement offers and discussions between the Secretary of State and the claimant shall not be competent evidence in judicial proceedings undertaken by the claimant pursuant to Section 2287.

(c) Upon issuance of a proposed decision to award payment or an offer to compromise, the claimant shall have 60 calendar days from the date of service of the proposed award or offer to compromise to accept the proposed award or offer to compromise. If the claimant fails to accept the proposed award or offer to compromise within the specified time, the application shall be deemed denied.

2285. The Secretary of State shall give written notice, as prescribed by the Secretary of State, of a decision rendered with respect to the application to the claimant.

2286. The Secretary of State shall give notice, as prescribed by the Secretary of State, to the corporation that the Secretary of State has made a decision to award funds to the claimant and shall provide a copy of the decision to the corporation.

2287. (a) A claimant against whom the Secretary of State has rendered a decision denying an application may, within six months after the mailing of the notice of the denial, file a verified petition in superior court for an Order Directing Payment Out of the Victims of Corporate Fraud

Compensation Fund based upon the grounds set forth in the application to the Secretary of State. If the underlying judgment is a California state court judgment, the petition shall be filed in the court in which the underlying judgment was entered. If the underlying judgment is not a California state court judgment or is a federal court judgment, the petition shall be filed in the superior court of any county within California that would have been a proper venue if the underlying lawsuit had been filed in a California state court, or in the Superior Court of the County of Sacramento.

(b) A copy of the petition shall be served upon the Secretary of State by the claimant. A certificate or affidavit of service shall be filed by the claimant with the court. Service on the Secretary of State may be made by mail addressed to the Secretary of State's office.

(c) The Secretary of State shall have 30 calendar days after being served with the petition in which to file a written response. The court shall thereafter set the matter for hearing upon the request of the claimant. The court shall grant a request of the Secretary of State for one continuance of as much as 30 calendar days and may, upon a showing of good cause by any party, continue the hearing as the court deems appropriate.

(d) The claimant shall have the burden of proving compliance with the requirements of Section 2282 by competent evidence at an evidentiary hearing. The claimant shall be entitled to a de novo review of the merits of the application as contained in the administrative record.

(e) At any time during the court proceedings, the petition may be compromised or settled by the Secretary of State and the court shall, upon joint petition of the claimant and the Secretary of State, issue an order directing payment out of the fund.

2288. (a) Whenever the court proceeds upon a petition under Section 2287, it shall order payment out of the fund only upon a determination that the aggrieved party has a valid cause of action within the purview of Section 2282, and has complied with Section 2287.

(b) (1) The Secretary of State may defend any action on behalf of the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses and the right to relitigate any issues that are material and relevant in the proceeding against the fund. The claimant's judgment shall create a rebuttable presumption of the fraud, misrepresentation, or deceit by the corporation, which presumption shall affect the burden of producing evidence.

(2) If the civil judgment, arbitration award, or criminal restitution order in the underlying action on which the final judgment in favor of the petitioner was by default, stipulation, consent or pursuant to Section 594 of the Code of Civil Procedure, or if the action against the corporation was defended by a trustee in bankruptcy, the petitioner shall have the burden of proving that the cause of action against the corporation was for fraud, misrepresentation, or deceit.

(c) The Secretary of State may move the court at any time to dismiss the petition when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons

having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein, does not form the basis for a meritorious recovery claim within the purview of Section 2282; provided, however, the Secretary of State shall give written notice at least 10 calendar days before hearing on the motion to the claimant.

2289. (a) Notwithstanding any other provision of this chapter and regardless of the number of persons aggrieved in an instance of corporate fraud, or misrepresentation or deceit resulting in a judgment meeting the requirements of Section 2282, or the number of judgments against a corporation, the liability of the fund shall not exceed fifty thousand dollars (\$50,000) for any one claimant per single judgment finding fraud, misrepresentation, or deceit, made with the intent to defraud.

(b) When multiple corporations are involved in the same event or series of events that are the basis of the claimant's final judgment and the conduct of two or more of the corporations results in a judgment meeting the requirements of Section 2282, the claimant may seek recovery from the fund based on the judgment against any one of the corporations, subject to the limitations of subdivision (a).

(c) When multiple claimants are involved in a corporate fraud, or in misrepresentation or deceit by a corporation, resulting in a judgment meeting the requirements of Section 2282, each claimant may seek recovery from the fund individually, subject to the limitations of subdivision (a).

(d) Claimants who are spouses, registered domestic partners, or persons other than natural persons, that have obtained an eligible final judgment shall be considered one claimant.

2290. If, at any time, the money deposited in the fund is insufficient to satisfy any duly authorized award or offer of settlement, the Secretary of State shall, when sufficient money has been deposited in the fund, satisfy the unpaid awards or offer of settlement, in the order that the awards or offers of settlement were originally filed, plus accumulated interest at the rate set by the Federal Reserve Bank of San Francisco on advances made to member banks under Sections 13 and 13a of the Federal Reserve Act, at the time of the award or settlement offer, not to exceed 2 percent per year.

2291. Any sums received by the Secretary of State pursuant to any provisions of this chapter shall be deposited in the State Treasury and credited to the fund.

2292. It shall be unlawful for any person or the agent of any person to file with the Secretary of State any notice, statement, or other document required under the provisions of this chapter that is false or untrue or contains any willful, material misstatement of fact. That conduct shall constitute a public offense punishable by imprisonment in a county jail for a period of not more than one year or a fine of not more than one thousand dollars (\$1,000), or both.

2293. When the Secretary of State has paid from the fund any sum to the claimant, the Secretary of State shall be subrogated to all of the rights of the claimant and the claimant shall assign all of his or her right, title, and interest in the judgment to the Secretary of State and any amount and interest

so recovered by the Secretary of State on the judgment shall be deposited in the fund.

2293.1. If the Secretary of State pays from the fund any amount in settlement of a claim or toward satisfaction of a final judgment against a corporation, the corporation shall be required to pay to the fund the amount paid plus interest at the prevailing legal rate applicable to a judgment rendered in any court of this state, within 30 calendar days of the date that the Secretary of State provided notice of the payment of the award or compromise. If the corporation fails to make the required payment to the fund within the required time, the corporation shall be suspended until the payment is made. A discharge in bankruptcy shall not relieve a corporation from the penalties and disabilities provided in this chapter.

2294. The Secretary of State shall not make any award to a claimant from the fund if the claimant has received payment from any other restitution funds or for the portions of the judgment that the claimant has collected from the corporation or any other defendant in the underlying judgment.

2295. The failure of an aggrieved person to comply with all of the provisions of this chapter shall constitute a waiver of any rights hereunder.

2296. This chapter shall apply to applications submitted to the Secretary of State on or after January 1, 2013.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.